

Message Text

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ORIGIN FAA-00

INFO OCT-01 ARA-10 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 EB-08 INR-10 NSAE-00 L-03 SS-15
NSC-05 /054 R

DRAFTED BY FAA:JHSHAFFER/EB/OA/AVP:JSGRAVATT:PMA
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ARA/EC:SMYLES
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FM SECSTATE WASHDC
TO AMEMBASSY BRASILIA PRIORITY

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E.O. 11652: N/A

TAGS: EAIR, BR

SUBJECT: AIRWORTHINESS CERTIFICATION OF BANDEIRANTE
EMB-110-P2 AIRCRAFT

REF: BRASILIA (A) 1300, (B) 907, AND (C) 9971 (77)

1. DEPARTMENT HAS REVIEWED WITH FAA PROBLEM OF U.S.
CERTIFICATION OF THE BANDEIRANTE EMB-110-P2. FAA
ADVISES THAT THE AIRCRAFT IS PRESENTLY ELIGIBLE FOR
U.S. TYPE CERTIFICATION UNDER FOLLOWING REQUIREMENTS,
SUBJECT TO PRESENTATION OF BONA FIDE EVIDENCE THAT THE
AIRCRAFT IS TO BE IMPORTED INTO THE U.S.:

A) THE REQUIREMENTS OF FEDERAL AVIATION REGULATION
(FAR) PART 23 (NORMAL, UTILITY, AND ACROBATIC CATEGORY)
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IN EFFECT IN 1969 INCLUDING AMENDMENTS 23-1 THROUGH
23-7 AND SPECIAL CONDITIONS. THIS OPTION WOULD LIMIT
THE AIRCRAFT TO GENERAL, NON-COMMERCIAL USE UNDER THE
GENERAL OPERATING AND FLIGHT RULES OF FAR PART 91.
COMPLIANCE MAY ALSO BE SHOWN WITH THE REQUIREMENTS OF
FAR PART 135, APPENDIX A, WHICH WOULD MAKE THE AIRCRAFT
ELIGIBLE FOR APPROVAL FOR U.S. AIR TAXI OPERATIONS

UNDER THE EXISTING, REPEAT EXISTING, OPERATING RULES OF FAR PART 135. HOWEVER, FAA NOTICE OF PROPOSED RULEMAKING 77-17, ISSUED ON AUGUST 19, 1977 TO UPGRADE THE SAFETY OF AIR TAXI OPERATIONS, CONTAINS A PROPOSED CHANGE TO PART 135 AIR TAXI OPERATING RULES WHICH WOULD PROHIBIT AN AIR TAXI CARRIER FROM OPERATING A SMALL AIRCRAFT WITH A PASSENGER CAPACITY OF TEN OR MORE THAT IS TYPE CERTIFICATED UNDER AIRWORTHINESS STANDARDS OTHER THAN PART 25 (TRANSPORT CATEGORY AIRCRAFT), UNLESS THAT AIRCRAFT WAS APPROVED FOR AIR TAXI OPERATIONS BEFORE AUGUST 19, 1977. THUS, WHILE COMPLIANCE WITH APPENDIX A OF PART 135 MAY BE SHOWN, IF THE PROPOSED CHANGE IN NOTICE 77-17 IS ADOPTED THE EMB-110-P2 COULD NOT BE OPERATED, IN A PASSENGER CONFIGURATION OF TEN OR MORE SEATS, IN PART 135 AIR TAXI OPERATIONS AFTER ADOPTION OF THE REGULATION.

B) THE REQUIREMENTS OF FAR PART 25, WHICH WOULD MAKE THE AIRCRAFT ELIGIBLE FOR APPROVAL FOR ALL OPERATIONS IN THE U.S.

2. FEDERAL AVIATION REGULATION 21.29 AND CLARIFYING FAA POLICY ISSUED IN AUGUST 1976 PRECLUDE THAT AGENCY FROM ACCEPTING AN APPLICATION FOR TYPE CERTIFICATION OF A FOREIGN PRODUCT UNLESS BONA FIDE EVIDENCE IS PRESENTED THAT THE PRODUCT IS TO BE IMPORTED INTO THE UNITED LIMITED OFFICIAL USE

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STATES. THIS POLICY WAS ADOPTED BECAUSE OF THE EXTENSIVE MANHOURS CONSUMED IN CERTIFICATION ACTIVITY FOR FOREIGN AIRCRAFT WHICH WERE NOT SUBSEQUENTLY IMPORTED INTO THE UNITED STATES. THE FAA AND THE DEPARTMENT HAVE GIVEN CONSIDERABLE THOUGHT TO THE SUGGESTION THAT THIS POLICY BE WAIVED IN THIS INSTANCE. SINCE ISSUANCE OF THE FAA POLICY STATEMENT, REGULATION 21.29 HAS BEEN APPLIED UNIFORMLY ON A WORLDWIDE BASIS AND NO WAIVERS HAVE BEEN GIVEN TO ANY FOREIGN MANUFACTURERS. TO OBTAIN A WAIVER WOULD BE EXTREMELY DIFFICULT TO JUSTIFY AS BEING IN THE U.S. INTEREST. THE U.S. AIRCRAFT MANUFACTURING INDUSTRY WOULD CERTAINLY OPPOSE THE WAIVER FOR THE REASONS GIVEN IN PARA. 3 D) AND E) BELOW.

3. FYI. FAA HAS PURSUED WITH SENIOR U.S. AVIATION AIRCRAFT MANUFACTURING OFFICIALS POINTS RAISED IN REFTELS (B) AND (C). THE VIEWPOINTS EXPRESSED BY THESE INDUSTRY OFFICIALS ARE

A) THAT THE EMB-110-P2 IS NOT A COMPETITIVE THREAT ON THE DOMESTIC U.S. MARKET;

B) THAT EMBRAER IS SEEKING U.S TYPE CERTIFICATION
PRIMARILY FOR USE AS A SELLING POINT TO THIRD COUNTRIES;

C) THAT EMBRAER AND THE BRAZILIAN GOVERNMENT COULD
ARRANGE FOR AN EMB-110-P2 SALE IN THE U.S. MOMENTARILY
IF THEY SO DESIRED;

D) THAT U.S. AIRCRAFT MANUFACTURERS HAVE BEEN UNABLE TO
OBTAIN BRAZILIAN IMPORT LICENSES EVEN AFTER INDEPENDENT
FINANCING IS ARRANGED BY A BRAZILIAN CUSTOMER AND ALL
OTHER GOB IMPOSED CONDITIONS HAVE BEEN MET;

E) THAT THE BRAZILIAN GOVERNMENT HAS NOT YET RELAXED
THE NEAR TOTAL BAN (ONLY 10 DOMESTICALLY BUILT U.S.
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AIRCRAFT IMPORTED INTO BRAZIL IN ALL OF 1977) AS HAS
VERBALLY BEEN SUGGESTED BY BRAZILIAN OFFICIALS ONCE ITS
TRADE DEFICIT WAS ELIMINATED. END FYI.

4. THE DEPARTMENT AND THE FAA
ARE UNABLE TO DEVELOP A BASIS WHICH WOULD BE IN THE
U.S. INTEREST FOR WAIVING THE "CUSTOMER FIRST" REQUIRE-
MENT FOR THE EMB-110-P2. ON THE OTHER HAND, THE FAA
WILL PROCEED WITH CERTIFICATION ACTION AS SOON AS BONA
FIDE EVIDENCE OF A SALE IS PRODUCED. VANCE

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Message Attributes

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Draft Date: 09 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
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